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OFFICE OF PETITIONS

In re Patent No. RE 39,442 :
Issue Date: 26 December, 2006 (4 June, 2002) :
Application No. 10/780,551 : DECISION ON PETITION
Filed: 17 February, 2002 :
Attorney Docket No. 19753-16595 :
:

This is a decision on the petition filed on 9 June, 2010, supplemented on 11 June, 2010, and properly treated as a petition pursuant to 37 C.F.R. §1.378(c) to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

NOTE: *The instant matter is a reissue, and calculations as to maintenance fee due date(s) are counted from the date of issue of the original patent.*

BACKGROUND

Patent No. RE 39,442 is a reissue of Patent No. 6,397,764 (the '764 patent) issued on 4 June, 2002. The second maintenance fee could have been paid during the period from 4 June, 2009, through midnight 4 December, 2009, or, with a surcharge, during the period from 5 December, 2009, through midnight 4 June, 2010. Accordingly, the patent expired after midnight 4 June, 2010, for failure to pay timely the second maintenance fee.

The instant petition was filed on 9 June, 2010. Because the petition was submitted within twenty-four (24) months after the six- (6-) month grace period provided in 37 C.F.R. §1.362(e), the petition was timely filed under the provisions of 37 C.F.R. §1.378(c).

The petition pursuant to 37 C.F.R. §1.378(c) is **GRANTED**.

The maintenance fee is hereby accepted—the appropriate fees were submitted *via* check—and the above-identified patent is reinstated as of the mail date of this decision.

Patent No. 6,882,878
Application No. 10/736,189

The patent file is being returned to IFW Files Repository.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2¹) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).


/John J. Gillon, Jr./
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¹ The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.